

Hawaiian Gazette.

VOL. XXX, NO. 104.

HONOLULU, H. I. TUESDAY, DECEMBER 31, 1895.—SEMI-WEEKLY.

WHOLE NO. 1720.

Hawaiian Gazette.

SEMI-WEEKLY.

ISSUED TUESDAYS AND FRIDAYS

W. R. FARRINGTON, EDITOR.

SUBSCRIPTION RATES:

Per month, Domestic.....\$.50
Per month, Foreign......75
Per year, Domestic.....5.00
Per year, Foreign.....6.00
Payable invariably in Advance.

HAWAIIAN GAZETTE COMPANY
Publishers.

GEO. M. PARIS, Manager.
Honolulu, H. I.

BUSINESS CARDS.

LORRIN A. THURSTON,
Attorney at Law, 113 Kaahumanu Street, Honolulu, H. I.

CARTER & KINNEY,
Attorneys at Law, No. 24 Merchant Street, Honolulu, H. I.

WILLIAM C. PARKE,
Attorney at Law and Agent to take Acknowledgments, No. 13 Kaahumanu Street, Honolulu, H. I.

W. R. CASTLE,
Attorney at Law and Notary Public, Attends all Courts of the Republic, Honolulu, H. I.

WILLIAM O. SMITH,
Attorney at Law, No. 66 Fort Street, Honolulu, H. I.

LYLE A. DICKEY,
Attorney at Law, No. 11 Kaahumanu Street, Honolulu, H. I.

MISS D. LAMB,
Notary Public, Office of J. A. Magoo, 52, Merchant Street, Honolulu, H. I.

J. M. WHITNEY, M.D., D.D.S.,
Dental Rooms on Fort Street, Office in Brewer's Block, cor. Fort and Hotel Sts; entrance, Hotel St.

W. F. ALLEN,
Will be pleased to transact any business entrusted to his care. Office over Bishop's Bank.

H. E. MCINTYRE & BRO.,
Grocery and Feed Store, Corner King and Fort Sts., Honolulu.

THE WESTERN & HAWAIIAN
Investment Company, Ltd. Money loaned for long or short periods on approved security.
W. W. HALL, Manager.

WILDER & CO.,
Lumber, Paints, Oils, Nails, Salt and Building Materials, all kinds.

H. W. SCHMIDT & SONS,
Importers and Commission Merchants, Honolulu, H. I.

JOHN T. WATERHOUSE,
Importer and Dealer in General Merchandise, Queen St., Honolulu.

C. E. WILLIAMS & SON,
Furniture of Every Description, King Street.

H. HACKFELD & CO.,
General Commission Agents, Queen Street, Honolulu, H. I.

HAWAIIAN WINE CO.,
Frank Brown, Manager, 28 and 30 Merchant St., Honolulu, H. I.

M. S. GRINBAUM & CO.,
Importers of General Merchandise and Commission Merchants, Honolulu, H. I.

M. S. GRINBAUM & CO.,
Commission Merchants, No. 215 Front St., San Francisco, Cal. P. O. Box 2803.

THEO. H. DAVIES & CO., LTD.,
Importers and Commission Merchants, Agents for Lloyd's and the Liverpool Underwriters, British and Foreign Marine Ins. Co.; and Northern Assurance Company.

THEO. H. DAVIES, Harold Janlon.
THEO. H. DAVIES & CO.,
Commission Merchants, 12 and 13 The Albany, Liverpool.

R. LEWERS, F. J. LOWREY, C. M. COOKE,
LEWERS & COOKE,
Successors to Lewers & Dickson,
Importers and Dealers in Lumber and Building Materials, Fort St.

HONOLULU IRON WORKS CO.,
Machinery of every description made to order.

ED. HOFFSCHLAEGER & CO.,
Importers and Commission Merchants, King and Bethel Streets, Honolulu, H. I.

HYMAN BROS.,
Importers of General Merchandise, from France, England, Germany and United States, No. 58 Queen Street, Honolulu, H. I.

HYMAN BROS.,
Commission Merchants, Particular attention paid to filling and shipping island orders, 206 Front Street, San Francisco.

F. A. SCHAEFER & CO.,
Importers and Commission Merchants, Honolulu, Hawaiian Islands.

Daily Advertiser 75 cents a month. Delivered by carrier.

E. O. HALL & SON, LTD.
Importers and Dealers in Hardware, Corner Fort and King Sts.

Wm. W. Hall, President and Manager
E. O. White, Secretary and Treasurer
Wm. P. Allen, Auditor
Thos. May and T. W. Hobson, Directors

C. HUSTACE,
Wholesale and Retail Grocer
LINCOLN BLOCK, KING ST.

Family, Plantation & Ship's Stores Supplied on Short Notice.
New Goods by every Steamer. Orders from the other Islands faithfully executed.
TELEPHONE 119.

ALLEN & ROBINSON,
Queen Street.
Dealers in Lumber, Windows, Doors, Blinds

AND BUILDERS' HARDWARE.
Wall Paper, Paints and Oils.
Stove and Steam Coal.

CONSOLIDATED
SODA WATER WORKS CO., LTD.
Esplanade, Cor. Fort and Allen Sts.

HOLLISTER & CO.,
Agents.

TOURISTS' GUIDE
THROUGH HAWAII
H. M. Whitney, Publisher.

Only Complete Guide Published.
BEAUTIFULLY ILLUSTRATED.
PRICE 75c.

For Sale by Hawaiian News Co.,
Honolulu, Hawaiian Islands.

GILBERT F. LITTLE,
Attorney at Law,
HILO, HAWAII.

J. S. WALKER,
General Agent the Hawaiian Islands,
Royal Insurance Company.

ALLIANCE Assurance Company,
Alliance Marine and General Insurance Company.

WILHELM OF MADGESBURG
INSURANCE COMPANY.
Sun Life Insurance Company of Canada.

Room 12, Spreckels' Block, Honolulu, H. I.

S. T. ALEXANDER H. P. BALDWIN
ALEXANDER & BALDWIN
Commission Merchants,
NO. 3 CALIFORNIA STREET,
SAN FRANCISCO

Island Orders Promptly Filled.

Country Store
for Sale.

The former plantation store at Papaikou now leased from the Onomea Sugar Company by Otsuki & Company is now offered for sale.

In addition to store and stock there is a new dwelling house on the premises.

The outstanding accounts and other assets will be sold with the store or separately.

The business offers a fine chance for one or more active men.

For particulars apply to F. M. Bindt at Papaikou or to

H. W. SCHMIDT,
Assignee of the Estate of Otsuki & Co.
4161-4f

The Honolulu Dog.

The Bulletin editor has an excellent recipe for the "yaller dog."

None of the ADVERTISER staff has tasted the animal, but no doubt after an entree of crow, yaller dog a la Bulletin would be delicious.

Sort of take the crow taste out.

Patent Back
Journals & Ledgers

PEAR

HAWAIIAN GAZETTE

MANUFACTURERS

HENRIETTA MEN GUILTY.

Decision Rendered by Judge Perry Monday Morning.

DEFENDANTS NOTE AN APPEAL.

Captain Anderson and Passenger Gale Sentenced to Eighteen Months Imprisonment at Hard Labor and \$500 Fine—Crew Get Three and Fines.

The announcement that Judge Perry would render a decision in the schooner Henrietta smuggling case Monday morning drew a crowd to the District court room. The prisoners were arraigned, and the following decision given in the case of Republic of Hawaii vs. W. B. Anderson et al. Importing opium:

The questions presented for decision in this case are: First—has an importation into the Hawaiian Islands been shown? Second—if such importation into a port not of entry is all that is shown, does that constitute a violation of Section 1, Act 12, of the Provisional Government laws?

Third—Does the evidence attach guilty knowledge to the defendants or any of them? Fourth—if it does upon the members of the crew, are they criminally liable?

The evidence shows that the vessel and her cargo of opium was found and seized by Custom House officers and police while lying at anchor in the port of Keau, near Waianae, Oahu, at a distance of about a quarter of a mile from shore; that she was there with the intent to unload the opium at that port; that her arrival in the port was voluntary and not in consequence of distress nor to avoid the perils of the sea; and that Keau is not a port of entry.

The authorities hold that under these circumstances the importation is complete, adding, however, that for fiscal purposes it must be into some port of entry.

In 1 Gall, 365, the court says: "By the arrival of the vessel at the port of Bristol on the 30th of June, with an intent there to unload her cargo, the importation was complete. The duties accrue on the importation, and not on the entry at the custom house."

"I am well satisfied that an importation within the meaning of the statute must be an importation into some port or district of the United States with intent there to discharge or land the cargo. . . . if there be a voluntary entry into the port, with an intent to land the goods, it has been held that the importation was complete, although within forty-eight hours a new destination was given to the property." 1 Gall, 358.

"The duties did not accrue, in the fiscal sense of the term, until the vessel arrived at that port of entry." 5 Cranch, 372 (2 U. S., 398). That means, if anything, that they do accrue upon such arrival.

"The importation is complete as soon as the goods are brought within any port with the intention of being unloaded or sold there." 1 Mason, 499.

"The question has also been asked, at what time the right to the Government to the duties accrue in the fiscal sense of the term? The answer is, at the time when the goods have arrived at the proper port of entry." 13 Peters, 494.

"I take it to be a well settled rule that the mere coming into port, though without breaking bulk, is prima facie evidence of an importation. But the presumption may be rebutted by showing that it was occasioned by unavoidable accident or overruling necessity. . . . I cannot find any case in which it has been held that the coming voluntarily into a port, with an intent to make that a port of discharge, unless a future contingent destination shall, after arrival, be given to the property, has been held not to be an importation. Much less can it be admitted that a vessel can have a right to come into port with goods on board which are absolutely prohibited from importation, merely to consult on an ulterior disposition of the goods. . . . If such pretences were allowed, it would be difficult to reach a single case of fraudulent importation, until the property had been removed beyond the grasp of forfeiture." 1 Gall, 244.

Keau not being a port of entry, does this importation come within the meaning of Section 1, Act 12? Or, does that act refer to and include only such importations as take place into ports of entry? It is contended on behalf of the defendants that all cases of illegal introduction of contraband goods in places other than ports of entry, come under Section 655 of the Compiled Laws, and that consequently this case should have been brought under that law and not under Act 12, and that the Legislature could not have intended and did not intend to provide by Act 12 for the prohibition and punishment of that which was already made punishable by the earlier statute.

Our statutes contain other instances of repetition of this sort. One is the case of larceny in the third and fourth degrees, where after one statute covering the subject already existed, another was passed, confined, however, to certain animals and poultry, and the object of which apparently was to provide a more severe penalty for the offense. It seems to be that a pros-

ecution for the larceny of poultry would not fail merely because it was brought under the special, and not under the general, statute.

In 4 Haw., 187, where defendant was indicted for having smuggled opium into the port of Honolulu, the question was whether he should be sentenced under Chapter 70 of the Penal Code (Sec. 655, C. L.) or under Chapter 56 of the laws of 1894, which was exactly the same as our present Act 12 except as to punishment. "The will of the Legislature manifestly is, that the pecuniary penalty," allowed by Section 655, "is to be taken away or abolished, and the only penalty is to be imprisonment," as provided by the laws of 1874.

"We are of the opinion that this offense of smuggling opium is punishable under the first section of Chapter 56 of the Session Laws of 1894, and under that alone." That is, the court holds that the Statute of 1874, wherein the only words used are "importation" and "import," covers cases of "smuggling." Defendants admit that the term "smuggling" includes the illegal introduction of contraband goods into ports not of entry. Section 1, Act 12 is an exact copy of Section 1 of the Act of 1874, except as to punishment, as above stated, and it follows, as it seems to me, that an illegal importation into a port not of entry does constitute a violation of the law under which defendants are charged.

The evidence as to the guilty knowledge on the part of the defendants, Anderson and Gale, of the fact that there was opium on board and that there was an intention illegally to import the same, is so clear that it seems to me to be unnecessary to review it.

As to the guilty knowledge in the others of the crew: The ship's papers all show that the vessel left Victoria on Nov. 7, 1895; the Report Outward of the same date shows that the cargo of "drugs," which was the schooner's only cargo, was then contained in 22 boxes. On arrival at Keau, that cargo was found to be 55 boxes, and broken pieces of boards were found lying in the hold and on deck. These pieces, upon some of which was impressed the official seal of the Custom House of Honolulu, were recognized by the Customs officers as being parts of boxes in which this same lot of opium, or a part of it, had been shipped from Honolulu to Victoria about a year ago. There was other evidence to substantiate this.

The only inference that can be drawn is, that the twenty-two boxes were broken open and the contents repacked in fifty-eight boxes some time during the voyage from Victoria to Keau. No one will contend that that change could have been accomplished in that little vessel without the actual knowledge of the crew. They could not but know before arrival at Keau that there was opium on board and that that was the only cargo; they knew that the vessel was not in distress, and helped to bring her into this out of the way port. Gale went ashore; they waited for him a day and a night. And yet when the officers of the law came aboard, the crew sat quietly on deck and said nothing. It seems to me that all the evidence taken together, although circumstantial, is sufficient, unexplained as it is, to show guilty knowledge on the part of the crew, of the intent to land the opium, and that the members of the crew are criminally liable as aiders and abettors.

The defendants are all found guilty.

W. B. Anderson, master of the schooner Henrietta, and C. E. Gale, the passenger, were each sentenced to eighteen months' imprisonment at hard labor and \$500 fine. Three months at hard labor and fines of \$500 each were given the crew.

Counsel for the defendants gave notice of appeal to the Supreme Court on law points.

CHICKEN THIEVES CAUGHT.

Detective Kaapa Runs in Two Old Offenders.

Two old jail birds, Kalakahuna and Kaili, were caught Saturday night while in the act of fixing up a scheme for selling some chickens which they had stolen. Some days ago a complaint was made at the police station to the effect that certain chickens had been stolen. The two jail birds were suspected at once, and Detective Kaapa set his men to work. Saturday morning Kalakahuna was seen coming toward town from Kalihi. He was dressed as a Chinaman, and had it not been that he was minus a queue, might have passed along without detection. But he was apprehended, and a very plump pullet found in the folds of his Chinese shirt. He made all sorts of excuses, but to no avail. Later his friend Kaili was found in a taro patch on the Ewa side of the railroad depot. When he saw the detectives he made a move as if to lie down in the mud, but thought better of it. When caught a bag of choice chickens was found in his possession. He denied stealing them, but was working under the direction of Kalakahuna.

Harry Wilder is back from a pleasant visit to Hilo and the volcano.

HOODLUMS INSULT A BRIDE.

Exciting Experience of a Young Chinese Girl at the Kinau.

Shortly before the departure of the Kinau yesterday afternoon a long procession of Chinese hacks came along from the direction of the fishmarket, and winding around among the various carriages standing in the vicinity, made an attempt to drive upon the wharf. In the back seat of the first carriage was noticed something covered with a red handkerchief and jutting just a little above the oil cloth that had been stretched across to keep out the gaze of inquisitive bystanders. This was the only carriage of the procession that succeeded in driving upon the wharf. As soon as it was found out that the object within was a Chinese bride, there was a yell from those assembled on the dock and the hack was surrounded. Arriving at the steerage entrance, the mother and other relatives held a long parley as to the advisability of having the bride alight in the midst of the rough gang. It was decided that she should do so and get out very slowly in order to preserve intact the arrangement of her red and green costume. As she reached the ground some disrespectful hoodlum snatched the handkerchief from her head and disclosed the face of a girl not more than twelve years old, who tried in vain to shield herself from the gaze of bystanders.

It was fortunate for the cowardly rascal that the police did not arrive sooner than they did, for it is probable he would have been treated to a severe chastisement. The handkerchief was replaced and the sobbing child conducted to the steerage, preceded by a little Chinese boy carrying a firecracker box in which was a black rooster held in by slats; on top were two Chinese bombs, a little wooden god and some flowers.

Upon reaching the steerage she was safe from further discomfort, as the sailors gave her protection and cuffed the ears of one or two of the bolder spirits among the hoodlums.

KAWAIAHAO CHURCH.

Members Show Aloha by Tree Planting and Good Works.

The shed in which the congregation of Kawaiahao church held services during the time that the old building was in process of reconstruction has been torn down lately. Members of the church have an aloha for the temporary meeting place, and in consequence have planted on the ground where it stood long-lived plants of various kinds, among them being coconuts and species of palms. This being the close of the old year, they deemed it appropriate to plant the trees and clean up the premises for a fresh start on the New Year.

Kawaiahao has many things to be thankful for, and the members are endeavoring to show their thankfulness by loving deeds in connection with the interests of the church. In mentioning the planting of trees, it seems apropos to speak of those large tamarinds and algarobas now on the grounds. But few people are acquainted with the fact that they were planted by the hands of Madame Armstrong, who was, while on the islands, an enthusiastic worker for the good of Kawaiahao and who performed many such deeds as the one mentioned.

Race to Lahaina.

There was a great crowd on Wilder's wharves yesterday afternoon as the Kinau and the Claudine departed. Every one was anxious to see the beginning of the race to Lahaina between the two crack Hawaiian boats. The Kinau got a good start and off Waikiki was nearly a quarter of a mile ahead of the Claudine. News of the race will be eagerly looked for by the adherents of each boat.

Races Postponed.

The horse races and bicycle contests that were to take place on New Year have been postponed on account of the heavy rain last night. It is very likely the events will come off on January 17th.

FIRE INSURANCE.

A Correspondent Aims a Grievance About Premiums.

EDITOR ADVERTISER:—One of the responsibilities of the coming Legislature is to liberate the business men of these islands from the thralldom of the fire insurance companies. Here, at least, is one monopoly that can be controlled by the state. The Government allows all reputable insurance companies to do business here and sanctions the act of the agents of these companies in banding together and pooling rates of insurance. Every piece of insurable property on the islands is marked at a certain rate and no power can change it save the Board of Underwriters or the Legislature. Every merchant not in the insurance business who indulges in the luxury of a fire policy will say that the existing rates are exorbitant. One of his reasons for saying so is that he is required to pay as much today as he was in the days of the hand engine and an inferior water supply. Another reason is that it costs no more to insure a building in Honolulu than it does anywhere else; yet in American cities having a fire-protecting equipment of equal efficiency to that of Honolulu the rate of insurance is much lower. When the Government organized the paid fire department and erected the fine pumping plant on Beretania street it very materially lessened the danger of fire, and no one is better acquainted with that fact than the gentleman who classifies and qualifies risks. The people pay for the improvements and foreign corporations reap the largest share of the benefit thereof.

If it be constitutionally correct for a state to define railroad and train fares and water, gas and electric-lighting rates, then it is just as lawful for the next Legislature to classify island properties and determine what it deems a fair rate of insurance thereon. Should the Legislature be too weak for this task, or too sympathetic with the foreign capitalists, then it would be a good plan for the business men of Honolulu to form a mutual fire insurance company, which would be effective in keeping at home a goodly proportion of the hundreds of thousands of premium money that would otherwise be remitted to America and Europe.

Such a company could safely take a limited number of non-contiguous risks in approved localities. Ample artificial means of procuring water has consigned droughts to the history of the past; electricity is superseding the dangerous kerosene; brick is displacing wood; buildings of more than two stories are rarely constructed, and there is hardly any fear of an extensive conflagration. During late years Honolulu has protected herself well from the devastation of wide spreading fires.

CIVIS.

RESCUED FROM DISGRACE.

Bitter Experiences of Rev. Kenneth Duncan

The Rev. Kenneth J. Duncan, former pastor of the Howard Presbyterian Church, San Francisco, whose fall from grace some two years ago, made such a sensation and scandal in church circles, has returned into the Christian fold, repentant and regenerate. He is now preaching every other night at the Mission Josephine, conducted by Robert J. Barbee and wife, at 29 Taylor street.

He spent some months in Honolulu and took a prominent part in religious affairs. The young man tried to retrieve himself by teaching school, but the story of his fall was soon noised abroad and he thought it better to give up the attempt to live a respectable life. He had many invitations from different church organizations to join them and amend his past life, but their kindness was only apparent. They had no real sympathy for him and scoffed and ridiculed his weakness. Some of the humbler, less pharisaical religious organizations, which he would have joined voluntarily, refused to admit him because they thought him too proud, too well educated, with too much of the recollection of his former prosperity about him, perhaps.

Frank Cooper is now punching tickets for the Oahu railway on passenger trains.